

TO: Connecticut Siting Council  
123 Main St  
New Britain, CT 06051

FR: Vincent Giandurco, Intervenor

DA: 6/4/15

**RE: PETITION NO. 1120** – The United Illuminating Company petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to the Hawthorne Substation located at 180 Hawthorne Drive, Fairfield, Connecticut.

Intervenor Vincent Giandurco, Fairfield, CT, asks that the following brief be added to the documentary record regarding this petition. The brief is a response to the hearings and information shared pursuant to this Petition. It serves as an addendum to Intervenor's Interrogatories, responses, and testimony. It is offered in order to help bring a clear structure to the various issues Intervenor has touched upon previously, with the goal of aiding the members of the Council in making their decision, and also in crafting an action plan if it is the case that the Petition is approved.

## BRIEF

Intervenor is grateful that regarding several areas of disagreement with the residents of the neighborhood adjacent to the Hawthorne Drive substation, United Illuminating (hereafter, UI) has entered into a constructive dialogue and has offered the outline of several concrete accommodations. This brief would first like to recognize those issues, and asks the Council to (a) consider incorporating any components which are eventually agreed upon as part of the eventual D & M plan, (b) stipulate their implementation in detailed particulars prior to construction, and (c) consider also some additional suggestions as described below.

1. UI offered to alter their original lighting plan during the 3/31/15 hearing. Their original proposal called for a series of fixtures featuring what are known as blue rich white high-intensity bulbs at a high elevation (~ 65 feet elevation ) on each of six or more lightning masts to be illuminated every night from dusk until dawn. At the CSC hearing 3/31/15 UI personnel amended their plan and described a new plan with one 421-watt light fixture within the site at an elevation of 35 feet to be illuminated every night from dusk to dawn. However, their witness, Mr. Rossetti, asked that the original planned fixtures be built as planned in the renovation in order to be illuminated “if they are deemed...it was necessary, such as an emergency” (sic) (See 3/31/15 transcript pp. 17 – 18) While this alteration would constitute a major improvement in terms of limiting light pollution and light trespass, the inclusion of the original, high-intensity high-elevation lights in the renovation makes these unwanted forms of pollution highly likely to occur in the future. Intervenor asks that the Council and UI clarify what the meaning of “deemed necessary” refers to in this context. Without such clarification, UI could utilize these high-intensity high-elevation lights at any time according to its choosing by “deeming” such usage “necessary.” Intervenor also requests that the one remaining fixture that will be illuminated every night be lowered to ~ 25 feet, and that it not shine directly into any neighboring property or domicile, and that there be no light trespass from the site. Finally, Intervenor asks that the specifications limiting site lighting to one illuminated light fixture during the nighttime hours be

specified in the D & M plan.

2. UI has offered to provide landscaping on the perimeter of the site in part to shield the site from view. This is critical to maintaining the character of the neighborhood, and should be included in the eventual plan. Intervenor requests that the landscaping be designed in such a way as to provide thorough visual shielding, and that the foliage used be mandated to be evergreen, tall enough to cover a large portion of the site wall, be resistant to deer feeding, and that UI be responsible for ongoing landscaping maintenance. (See more on screening/fencing below.)
3. UI has agreed to lower the height of the planned lightning masts to 55 feet, from a proposed 70 feet, and to remove one mast from the South side of the site. This is a step in the right direction. In order to provide for this change, UI has asked for an additional mast on the West side of the site. This would increase the number of lightning masts from the current three to ten. That is, UI is asking to more than triple the number of masts. This seems excessive, as the site footprint is only being expanded by approximately 40%, and the structure is not being made taller. (See transcript 4/23/15 pp. 51 and following.) Intervenor asks that the Council determine the maximum height of masts needed to fully protect the site, and also the maximum number needed. For example, if UI can fully protect the site with six masts, six should be the mandated number. If the site requires 40-foot masts for proper protection, that should be the mandated height.
4. UI has agreed to meet with abutting property owners to discuss in detail plans for landscape architecture and planting, and to create a definite plan for same. (See 4/23/15 Transcript, Mr. Tournas testimony, pp.50 and following. ) As of this writing, no meeting has been held, but tentative date has been set. Intervenor asks that the Council note that parties including UI, Intervenor Tournas and Giandurco, and abutting property owners plan to attend this meeting. We also ask that minutes of the meeting be reported for the Council's inspection, and that at this meeting these parties finalize landscaping details and have these details submitted for Council review and approval. Upon approval, Intervenor asks that these putative agreement terms be incorporated into the final D and M plan.

## PART II: Additional Suggestions

Intervenor also requests that the following information, gleaned from filings accompanying this petition, and also from testimony at the various hearings, including commentary by Council members, be included in the Council's decision-making process. Some of the information shows that UI may have misrepresented some facts in the course of filing, and also neglected to follow statutory procedure. Whether this was intentional or unintentional is a matter of speculation. Intervenor asks that the Council (a) note the inconsistencies between filings, testimony and eventual disclosures, (b) include this understanding into their vetting of the petition's merits, and (b) see to it that the eventual development plan, should there be one, reflect the actual facts in these matters, rather than the original inaccurate claims. This Brief will now list some of these areas of concern below.

1. UI provided EMF testing results, as per the Council's mandate. Intervenor asks the Council to determine if the results provided do in fact fall within so-called acceptable or safe limits as defined by relevant engineering consensus, as UI was not able to present an EMF expert at the 4/23 hearing. (See transcript pp.26 and following.) UI staff admitted they "did not have an answer" and promised explanations by "Monday", which would have been Monday, 4/27/15, but these have not been delivered in the interim, and are of great interest to the surrounding community.
2. UI research, again provided at the behest of the Council, maintains that the new addition to the

substation will not materially or noticeably increase the amount of noise generated by the substation. Intervenor asks the Council to stipulate this as a required outcome in the eventual development plan.

3. UI released a wetlands report to the Council. The UI wetlands experts Ms. Huebner and Mr. Cloud indicated in testimony 4/23/15 that there is a wetlands approximately 19 feet from the site (see pp.20 of transcript and following). Town of Fairfield Conservation expert Ms. Annette Jacobson testified that as the site will exchange grassy areas for crushed rock with a stone foundation, runoff will tend to increase (see 4/23/15 Transcript, pp. 68 and following). Intervenor asks that the Council stipulate that any final development plan include defined plans to limit runoff from the site, and to eliminate potential damage to the wetlands area.

4. UI has filed a letter from Mr. Kyle Eckert of Conestoga-Rovers dated 11/14/14 (see CSC-005 Attachment B) which indicated that the site included a habitat of an endangered species of turtle, the Eastern Box Turtle. Also, a letter from Dawn McCay of Natural Diversity Database (see CSC-003) stated the same. In testimony, UI experts contradicted this letter, claiming that there was no turtle habitat on the site (See transcript 4/23 pp. 22 and following). At the 3/31/15 hearing, UI turtle habitat expert Mr. Quinn stated that there was no such habitat. He repeated this claim at the 4/23/15 hearing. Under cross-examination at the 4/23/15 hearing, UI's expert Mr. Quinn indicated that there is a turtle habitat within approximately 500 feet of the site, and that given the turtles' natural tendency to roam territory adjacent to their nesting area, that the site may in fact be an Eastern Box Turtle habitat. Intervenor asks that the Council note this misinformation, and also that any eventual development plan include defined plans to protect these turtles and their habitat.

5. UI did not notify all abutting property owners as per statutory requirements. This is a matter of contention on the part of the petitioner, but this Intervenor finds the claims that residents Azarian and Tournas are in fact abutters and were not properly notified to be highly credible, given the provided deed and survey information on file with the Town of Fairfield.

6. Fencing surrounding the site has been an additional point of both contention and agreement, UI plans to build a chain-link fence around the site, at an height of 14 feet. This fence would have strips of plastic inserted into the links, so that it would be a visual screen as well. In a private meeting with abutting property owners and other interested parties and Intervenor on 4/16/15, UI executives maintained that safety and security are their number one priority, which is a fine goal. (See 4/23/15 transcript Giandurco testimony pp. 53 and following; and Council members Ashton and Hannon pp. 55 and following.) UI also mentioned that they are concerned about the possibility of incidents such as one that occurred in California in which a perpetrator fired a weapon into a substation, causing damage and service interruption. At that meeting, abutting property owners and Intervenor expressed concern about the possibility of fire at the substation, and whether or not a wire fence would provide adequate fire protection to neighboring properties and residents should it occur. Also, UI expressed worries over trespassing into the site, both now and after the addition is built.

UI now maintains that a chain-link fence is adequate to fulfill all these objectives. During the 4/23/15 hearing, UI's counsel asked UI's own engineer if it is possible to procure a chain-link fence with slats which also has a 1 and a quarter inch link mesh size, which discourages climbing, scaling, and thus trespass. UI's engineer Cloud testified that chain-link fencing with slats of the desired type is only available in 2-inch link size (see 4/23/15 transcript pp. 82 and following.) As noted by Council member Hannon (4/23/15 transcript, pp. 57 and following), 2-inch mesh type chain link fencing is far easier to climb, and thus to scale and to gain access to trespass upon the site. Intervenor feels that each of these concerns – (a) preventing the possibility of firing a firearm into the site (b) limiting damage in

the case of a fire and (c) preventing scaling and trespass would be solved by the construction of a stone or concrete wall on the South side and other sides of the property. (The north and west sides are owned by GE and have security in place. The east side is the entrance driveway side, and perhaps it too should have a wall. This is a matter which should be considered closely.) Such a wall would prevent the spread of fire; would make firing a weapon into the substation nearly impossible; and would make it very difficult to climb or scale the wall to gain access to the site. That is, a wall of such construction would fully address the concerns expressed by UI at the 4.23/15 hearing. Intervenor asks that the Council take these issues into consideration when adjudicating UI's concerns regarding site security, and stipulate such a hardened wall on some sections of the site borders.

Intervenor would like to close by again thanking the Council for allowing him to participate in this process, and for welcoming this brief. The Original and 15 copies of this document will be delivered to the Council via USPS.

Respectfully submitted,

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cc. Parties and Intervenors